

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 309

Introduced by Assembly Member Price

February 17, 2009

An act to add Section 14838.8 to the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 309, as amended, Price. Public contracts: small business participation.

Existing law, the Small Business Procurement and Contract Act, requires the Director of General Services and the heads of other state agencies that enter into contracts for the provision of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses in these contracts, to provide for small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified.

This bill would require all state agencies, departments, boards, and commissions to establish and achieve *an annual* goal of 25% small business participation in state procurements and contracts, to ensure that the state's procurement and contract processes are administered in order to meet or exceed the goal, and to report to the Director of General Services statistics regarding small business participation in his or her agency's procurements and contracts.

The bill would require the Department of General Services to monitor the progress of the agencies toward meeting the goal, ~~to notify the head~~

of each agency of his or her agency's successes and deficiencies toward meeting the goal, and to provide this information to the Office of Small Business Advocate.

The bill would also require a state agency, department, board, or commission that has not achieved the goal by ~~December 31, 2010, the close of the fiscal year~~ to submit an implementation and corrective action plan to the Department of General Services ~~on or before August 1, 2011, within 45 days~~ and every year thereafter as long as that agency fails to meet or exceed the goal. The bill would require the department, in collaboration with the Office of Small Business Advocate, ~~to review any implementation and corrective action plans received, and to explore ways to work with the agencies that have not met the goal to improve performance~~ to undertake reasonable means to assist agencies in improving small business participation in their contracting.

The bill would require all state agencies, departments, boards, and commissions to work with the department to help small businesses market their products, goods, and services to the state by providing access to information about current bid opportunities on their Internet Web sites.

The bill would also require the Office of Small Business Advocate to collaborate with the Department of General Services to cooperatively enhance the state's small business program by helping small businesses ~~secure needed financing~~ access capital and other financial resources necessary to successfully fulfill state contracts.

This bill applies to all state public entities that receive state public funding, including the California State University, University of California, and California Community Colleges. In calculating the total amount of contracting covered by this bill, the California State University, the University of California, and the California Community Colleges will only be required to meet the 25% goal for state funding used in contracting.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14838.8 is added to the Government
- 2 Code, to read:
- 3 14838.8. In order to encourage small business participation in
- 4 state contracts, all state agencies, departments, boards, and

1 commissions shall establish and achieve ~~a~~ *an annual* goal of 25
2 percent small business participation in state procurements and
3 contracts.

4 (a) Notwithstanding any other provision of this chapter, the
5 heads of all state agencies, departments, boards, and commissions
6 shall ensure that the state's procurement and contract processes
7 are administered in order to meet or exceed the 25 percent small
8 business participation goal, and shall report to the Director of
9 General Services statistics regarding small business *annual*
10 participation in his or her agency's procurements and contracts.

11 (b) ~~(1)~~ The Department of General Services shall monitor the
12 progress of all state agencies, departments, boards, and
13 commissions toward meeting the 25 percent small business
14 participation goal. *The department shall regularly share*
15 *information with the Office of Small Business Advocate on each*
16 *individual agency, department, board, and commission's progress*
17 *in meeting the annual goal, including, but not limited to, providing*
18 *copies of corrective action plans.*

19 ~~(2) The department shall notify the head of each state agency,~~
20 ~~department, board, or commission of his or her agency's successes~~
21 ~~and deficiencies toward meeting the 25 percent small business~~
22 ~~participation goal, based on its findings from monitoring that~~
23 ~~agency's progress.~~

24 ~~(3) The department shall provide this information to the Office~~
25 ~~of Small Business Advocate.~~

26 (c) (1) A state agency, department, board, or commission that
27 has not achieved the 25 percent small business participation goal
28 by ~~December 31, 2010,~~ *the close of the fiscal year* shall submit an
29 implementation and corrective action plan to the Department of
30 General Services ~~on or before August 1, 2011,~~ *within 45 days* and
31 annually thereafter as long as that agency fails to meet or exceed
32 the goal.

33 (2) The Department of General Services, in collaboration with
34 the Office of Small Business Advocate, ~~shall review any~~
35 ~~implementation and corrective action plans received, and shall~~
36 ~~explore ways, including memoranda of understanding, to work~~
37 ~~undertake reasonable means to assist agencies in improving small~~
38 ~~business participation in their contracting, including entering into~~
39 ~~memoranda of understanding with the agencies that have not met~~
40 the goal to improve performance.

1 (d) All state agencies, departments, boards, and commissions
2 shall use the ~~Statutory Informal Bidding Provisions~~ *contracting*
3 *procedure authorized in Section 14838* to contract with small
4 businesses for goods and services contracts under one hundred
5 thousand dollars (\$100,000) and construction contracts under one
6 hundred twenty thousand dollars (\$120,000) whenever possible.

7 (e) ~~(1)~~ The Department of General Services shall actively
8 promote small business certification, help small businesses market
9 their products, goods, and services to the state, and promote the
10 use of *technologies and other innovative solutions for notifying*
11 *small businesses of state contracting opportunities, including, but*
12 *not limited to*, the Subscription Outreach Service of the State
13 Contracts Register.

14 ~~(2)~~ All state agencies, departments, boards, and commissions
15 shall work with the department to help small businesses market
16 their products, goods, and services to the state by providing access
17 to information about current bid opportunities on their Internet
18 Web sites.

19 (f) ~~The Office of Small Business Advocate~~ *Department of*
20 *General Services* shall collaborate with the Department of General
21 Services to cooperatively enhance the state's small business
22 program by helping small businesses secure needed financing.
23 *with the Office of the Small Business Advocate in the office's work*
24 *to assist small businesses access capital and other financial*
25 *resources necessary to successfully fulfill state contracts.*

26 (g) *This section applies to all state agencies, departments,*
27 *boards, commissions, and other state public entities that receive*
28 *state funding including the California State University, the*
29 *University of California, and the California Community Colleges.*
30 *In calculating the total amount of contracting covered by this*
31 *section, the California State University, the University of*
32 *California, and the California Community Colleges shall only be*
33 *required to meet the 25 percent goal for state funding used in*
34 *contracting.*